

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Joshua Adam Brooks,

Civ. No. 22-2011 (JWB/LIB)

Plaintiff,

v.

David A. Lindlbauer, *in his individual and official capacity*; Jana Brister-Korby, *(Skye), in her individual and official capacity*; Charles S. Fai, *in his individual and official capacity*; Mindy C. Seigert-Horgeshimer, *in her individual and official capacity*; and Scott E. Giannini, *in his individual and official capacity*,

Defendants.

**ORDER ACCEPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE**

The above matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Leo I. Brisbois dated March 24, 2023. (Doc. No. 34.) No objections have been filed to that R&R in the time permitted. In the absence of timely objections, the Court reviews an R&R for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Having reviewed the R&R, the Court finds no clear error.

Based on the R&R of the Magistrate Judge, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The March 24, 2023 Report and Recommendation (Doc. No. 34) is **ACCEPTED**;
2. Defendants’ Motion to Dismiss (Doc. No. 12) is **GRANTED** as follows:

a. Plaintiff's § 1983 official-capacity claims seeking monetary damages as alleged against all Defendants are **DISMISSED without prejudice** for lack of subject-matter jurisdiction;

b. Plaintiff's § 1983 official-capacity claims for injunctive and declaratory relief as alleged against all Defendants are **DISMISSED without prejudice** for failure to state a claim upon which relief can be granted;

c. Plaintiff's § 1983 individual-capacity claims for monetary damages, injunctive relief, and declaratory relief as alleged against all Defendants are **DISMISSED without prejudice** for failure to state a claim upon which relief can be granted;

d. The Court declines to exercise supplemental jurisdiction over Plaintiff's state-law claims of intentional infliction of emotional distress as alleged in the Complaint;

3. Plaintiff's Motion for Temporary Restraining Order (Doc. No. 18) is **DENIED**; and

4. Plaintiff's Motion for Extension of Deadline (Doc. No. 26) is **DENIED as moot**, since Plaintiff's Opposition to the Motion to Dismiss (Doc. No. 30) was filed and considered prior to the Report and Recommendation being issued.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: April 17, 2023

s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District Judge